

REMARKS

Applicant respectfully requests reconsideration of the subject application for the reasons set forth herein.

Nonstatutory Double Patenting

Claims 1-3, 16, 17, 19-22, and 25-31 stand rejected on the ground of nonstatutory obviousness-type double patenting over Claim 22 of U.S. Patent No. 6,959,183 (the “’183 Patent”). Applicant respectfully traverses these rejections for at least the following reasons.

The M.P.E.P. § 804 recites, in part:

A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). *See, e.g., In re Berg*, 140 F.3d 1428, 46 U.S.P.Q.2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 U.S.P.Q.2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 U.S.P.Q. 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 U.S.P.Q. 761 (C.C.P.A. 1982); *In re Vogel*, 422 F.2d 438, 164 U.S.P.Q. 619 (C.C.P.A. 1970); and *In re Thorington*, 418 F.2d 528, 163 U.S.P.Q. 644 (C.C.P.A. 1969).

In addition, 35 U.S.C. § 102(b) recites:

A person shall be entitled to a patent unless – (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States.

Furthermore, “a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *See*, M.P.E.P. §

2131, citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987).

The '183 Patent Does Not Anticipate Applicant's Invention

Independent Claim 1 and amended, independent Claim 16 both disclose methods of providing cellular wireless communications services “wherein...[a] modeled geographic area approximates at least one municipal region indicative of anticipated participation” of a subscriber or a user “in at least one selected from the group consisting of living, working, playing, shopping, and traveling.” Applicant respectfully asserts that these Claims are not anticipated by the '183 Patent.

The Office Action states that Claim 22 of the '183 Patent discloses, in part, a “method of rendering wireless communications services...comprising...providing the wireless communications services solely from a limited geographic area that approximates at least one municipal region in which the subscriber substantially lives, works, and plays.” *Office Action of December 19, 2005*, at 3-4. Applicant respectfully asserts that the '183 Patent does not disclose that a geographic area is *modeled*. The '183 Patent discloses a geographic area that is *limited*. However, a *modeled* geographic area is different from a *limited* geographic area because a modeled geographic area is distinct from a limited geographic area. A modeled geographic area is an area that is modeled and may or may not be of limited geographic area, while a limited geographic area may or may not be modeled. A modeled geographic area is an area that has been constructed according to certain parameters, while a limited geographic area is an area that has been merely restricted. Because these may be exclusive and discrete concepts, the '183 Patent has a distinct claim coverage. Thus, Applicant respectfully asserts that Claim 1 and

amended Claim 16 are not disclosed in the '183 Patent and are not only different in language and construction, but are also different in scope and meaning and, therefore, Claim 1 and amended Claim 16 are patentable over the '183 Patent in this regard.

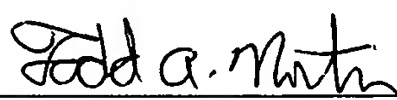
Accordingly, Applicant submits at least Claim 1 and amended Claim 16 are patently distinguishable over the '183 Patent. Applicant further submits that Claims 2, 3, 17, 19-22, and 25-31 are similarly distinguishable over the '183 Patent by virtue of their ultimate dependency from a patently distinct base claim.

Conclusion

Wherefore, Applicant respectfully believes all outstanding grounds raised by the Examiner have been addressed, and thus respectfully submits the present case is in condition for allowance, early notification of which is earnestly solicited.

Respectfully submitted,

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